

# United States District Court

WESTERN

DISTRICT OF

PENNSYLVANIA

## APPLICATION TO PROCEED IN FORMA PAUPERIS, SUPPORTING DOCUMENTATION AND ORDER

PATRICK LAMONT SIMS v. JAMES F. SHERMAN

CASE NUMBER: 04-381E

I, PATRICK LAMONT SIMS, declare that I am the (check appropriate box)☒ petitioner/plaintiff☐ movant (filing 28 U.S.C. 2255 motion)☐ respondent/defendant☐ \_\_\_\_\_  
other

in the above-entitled proceeding; that, in support of my request to proceed without being required to prepay fees, cost or give security therefor, I state that because of my poverty, I am unable to pay the costs of said proceeding or give security therefor; that I believe I am entitled to relief. The nature of my action, defense, or other proceeding or the issues I intend to present on appeal are briefly stated as follows: The claim presented pursuant to the original habeas provisions of 28 U.S.C. § 2241 was cognizable and the district court erred in its holding that it lacked jurisdiction to adjudge the matter. Further, the district court erred in its denial of the motion to relief from judgment because Plaintiff's objections to the magistrate judge's report and recommendation was timely filed under the mailbox rule of Houston v. Lack, 487 U.S. 266 (1988), hence the district court's holding that Plaintiff failed to file objections is clearly erroneous.

In further support of this application, I answer the following questions.

1. Are you presently employed?

Yes ☒ No ☐

a. If the answer is "yes," state the amount of your salary or wages per month, and give the name and address of your employer. (list both gross and net salary)

Prison job assignment as an orderly in the psychology department, which pays an average monthly stipend of \$49.67. See Attached Statement of Prison Account.

b. If the answer is "no," state the date of last employment and the amount of the salary and wages per month which you received.

2. Have you received within the past twelve months any money from any of the following sources?

a. Business, profession or other form of self-employment

Yes ☐ No ☒

b. Rent payments, interest or dividends?

Yes ☐ No ☒

c. Pensions, annuities or life insurance payments?

Yes ☐ No ☒

d. Gifts or inheritances?

Yes ☐ No ☒

e. Any other sources?

Yes ☐ No ☒

If the answer to any of the above is "yes," describe each source of money and state the amount received from each during the past twelve months.

N/A

3. Do you own any cash, or do you have money in checking or savings accounts?

Yes ☒ No ☐ (Include any funds in prison accounts.)

If the answer is "yes," state the total value of the items owned.

The current balance of my prison account is .99¢. See Attached Statement of Prison Account.

4. Do you own or have any interest in any real estate, stocks, bonds, notes, automobiles or other valuable property (excluding ordinary household furnishings and clothing)?

Yes ☐ No ☒

If the answer is "yes," describe the property and state its approximate value.

5. List the persons who are dependent upon you for support, state your relationship to those persons, and indicate how much you contribute toward their support.

NONE

I declare under penalty of perjury that the foregoing is true and correct.

Executed on

5-6-06

(Date)

Patrick Sims

Signature of Applicant

### CERTIFICATE

(Prisoner Accounts Only)

I certify that the applicant named herein has the sum of \$ \_\_\_\_\_ on account to his credit at the \_\_\_\_\_ institution where he is confined. I further certify that the applicant likewise has the following securities to his credit according to the records of said institution: \_\_\_\_\_

I further certify that during the last six months the applicant's average balance was \$ \_\_\_\_\_

\_\_\_\_\_  
Authorized Officer of Institution

### ORDER OF COURT

The application is hereby denied

\_\_\_\_\_  
United States Judge

\_\_\_\_\_  
Date

The application is hereby granted. Let the applicant proceed without prepayment of cost or fees or the necessity of giving security therefor.

\_\_\_\_\_  
United States Judge  
or Magistrate

\_\_\_\_\_  
Date

## All Transactions



<b>Inmate Reg #:</b>	13953039	<b>Current Institution:</b>	McKean FCI
<b>Inmate Name:</b>	SIMS, PATRICK	<b>Housing Unit:</b>	A
<b>Report Date:</b>	05/03/2006	<b>Living Quarters:</b>	A03-117L
<b>Report Time:</b>	2:02:18 PM		

<u>Date/Time</u>	<u>User Id</u>	<u>Transaction Type</u>	<u>Amount</u>	<u>Ref#</u>	<u>Payment#</u>	<u>Balance</u>
5/1/2006 2:07:03 PM	mck4247	Debt Encumbrance	(\$0.99)	FICD0506 - 1295		
4/18/2006 4:35:00 PM	AMService	Phone Withdrawal	(\$1.00)	ITS0418		\$0.99
4/18/2006 11:12:59 AM	MCK4144	Sales	(\$15.60)	22		\$1.99
4/11/2006 11:32:58 AM	MCK4144	Sales	(\$45.35)	36		\$17.59
4/7/2006 7:56:29 AM	MCK9681	Payroll - IPP	\$59.00	FIPP0306		\$62.94
4/4/2006 12:31:54 PM	MCK3312	Sales	(\$6.40)	44		\$3.94
4/4/2006 11:54:05 AM	MCK3312	Sales	(\$90.15)	27		\$10.34
3/22/2006 5:57:59 PM	AMService	Phone Withdrawal	(\$6.00)	ITS0322		\$100.49
3/20/2006 6:42:11 PM	AMService	Phone Withdrawal	(\$7.00)	ITS0320		\$106.49
3/20/2006 11:33:58 AM	MCK4144	Sales	(\$23.75)	53		\$113.49
3/17/2006 5:41:38 AM	AMSERVICE	Lockbox - CD	\$125.00	70153601		\$137.24
3/13/2006 11:56:19 AM	MCK3312	Sales	(\$4.35)	70		\$12.24
3/9/2006 5:36:11 PM	AMService	Phone Withdrawal	(\$6.00)	ITS0309		\$16.59
3/6/2006 11:23:06 AM	MCK3312	Sales	(\$27.55)	66		\$22.59
3/3/2006 8:00:32 AM	MCK9312	Payroll - IPP	\$49.06	FIPP0206		\$50.14
2/27/2006 4:54:11 PM	AMService	Phone Withdrawal	(\$7.00)	ITS0227		\$1.08
2/27/2006 11:36:27 AM	MCK5844	Sales	(\$21.45)	39		\$8.08
2/21/2006 12:15:41 PM	MCK3312	Sales	(\$34.60)	123		\$29.53
2/13/2006 11:47:33 AM	MCK3312	Sales	(\$7.75)	95		\$64.13
2/10/2006 8:10:44 AM	MCK4019	Payroll - IPP	\$52.00	FIPP0106		\$71.88
2/6/2006 12:14:06 PM	MCK3312	Sales	(\$8.35)	84		\$19.88
1/30/2006 12:09:53 PM	MCK3874	Sales	(\$112.50)	101		\$28.23
1/29/2006 5:59:38 PM	AMService	Phone Withdrawal	(\$10.00)	ITS0129		\$140.73
1/28/2006 5:39:26 AM	AMSERVICE	Lockbox - CD	\$150.00	70150301		\$150.73
1/17/2006 5:28:32 PM	AMService	Phone Withdrawal	(\$1.00)	ITS0117		\$0.73
1/9/2006 5:37:57 PM	AMService	Phone Withdrawal	(\$6.00)	ITS0109		\$1.73
1/9/2006 11:13:06 AM	MCK3312	Sales	(\$42.05)	80		\$7.73
1/6/2006 7:57:25 AM	MCK4019	Payroll - IPP	\$49.59	FIPP1205		\$49.78
12/27/2005 6:54:32 PM	AMService	Phone Withdrawal	(\$1.00)	ITS1227		\$0.19
12/22/2005 11:56:10 AM	MCK3312	Sales	(\$4.45)	77		\$1.19
12/15/2005 11:57:47 AM	MCK3312	Sales	(\$47.30)	38		\$5.64
12/8/2005 12:09:19 PM	MCK3312	Sales	(\$4.55)	52		\$52.94
12/8/2005 12:08:40 PM	MCK3312	Sales	\$0.00	50		\$57.49
12/7/2005 9:20:48 AM	MCK4019	Payroll - IPP	\$50.89	FIPP1105		\$57.49
12/1/2005 12:05:46 PM	MCK3312	Sales	(\$50.00)	45		\$6.60
11/21/2005 12:08:35 PM	MCK3312	Sales	(\$8.00)	62		\$56.60
11/17/2005 11:24:48 AM	MCK3312	Sales	(\$12.85)	26		\$64.60
11/10/2005 12:16:51 PM	MCK3312	Sales	(\$114.60)	51		\$77.45
11/9/2005 5:52:32 PM	AMService	Phone Withdrawal	(\$10.00)	ITS1109		\$192.05
11/9/2005 8:23:10 AM	MCK9681	Payroll - IPP	\$52.00	FIPP1005		\$202.05
10/22/2005 5:57:18 AM	AMSERVICE	Lockbox - CD	\$150.00	70143801		\$150.05
10/20/2005 11:34:11 AM	MCK3312	Sales	(\$14.00)	27		\$0.05
10/13/2005 11:17:36 AM	MCK3312	Sales	(\$60.00)	23		\$14.05
10/7/2005 11:36:18 AM	MCK4019	Payroll - IPP	\$74.00	JV0006		\$74.05
9/21/2005 11:11:45 AM	MCK6704	Sales	(\$1.65)	57		\$0.05
9/14/2005 8:25:34 AM	MCK5844	Sales	(\$7.15)	54		\$1.70
9/7/2005 11:37:39 AM	MCK6704	Sales	(\$21.25)	86		\$8.85
9/2/2005 8:27:33 AM	MCK9681	Payroll - IPP	\$30.00	JV0155		\$30.10
8/17/2005 11:57:24 AM	MCK6704	Sales	(\$5.25)	41		\$0.10
8/10/2005 11:17:55 AM	MCK4848	Sales	(\$25.00)	14		\$5.35

### All Transactions



Inmate Reg #:	13953039	Current Institution:	McKean FCI
Inmate Name:	SIMS, PATRICK	Housing Unit:	A
Report Date:	05/03/2006	Living Quarters:	A03-117L
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8/5/2005 9:45:55 AM	MCK4019	Payroll - IPP	\$30.00	JV0143		\$30.35

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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

PATRICK LAMONT SIMS,

Petitioner,

vs.

JAMES F. SHERMAN,

Respondent.

Civil Action No. 04-381E  
JUDGE SEAN McLAUGHLIN  
MAGISTRATE JUDGE BAXTER

CERTIFICATE OF SERVICE

The undersigned certifies that on the date below a true and correct copy of the foregoing Application To Proceed In Forma Pauperis with Supporting Documentation and Order was conveyed to prison authorities for mailing, with first class U.S. postage prepaid and properly addressed to the following parties:

Chirsty C. Wiegand, Esq.  
Assistant U.S. Attorney  
Office of the United States Attorney  
700 Grant Street  
Suite 400  
Pittsburgh, PA 15219

United States Court of Appeals  
For the Third Circuit  
Ania R. Laws, Case Manager  
21400 United States Courthouse  
601 Market street  
Philadelphia, PA 19106-1790

Date:

5-6-06

*Patrick Sims*

Patrick Lamont Sims #13953-039  
Plaintiff/Appellant  
FCI McKean  
P.O. Box 8000  
Bradford, PA 16701

May 6, 2006

Patrick Lamont Sims #13953-039  
FCI McKean  
P.O. Box 8000  
Bradford, PA 16701

United States District Court  
Western District of Pennsylvania  
Office of the Clerk  
U.S. Courthouse  
17 South Park Row  
Erie, PA 16501


**Re: Patrick Lamont Sims v. James F. Sherman:**  
**Case No. 04-381E/Court of Appeals No. 06-2440**  
**Jdg. Sean McLaughlin**

Dear Clerk:

Enclosed for filing please find the original and three copies of Application To Proceed In Forma Pauperis and Supporting Documentation and Order. This pleading is submitted as instructed by the Third Circuit Court of Appeals in the case which is now pending under the case number listed above. In addition, a Certificate of Service is included with this submission.

Your assistance is greatly appreciated.

Sincerely,

  
cc: file  
: jc/dnr  
: enclosure